BILL DRAFT 2007-RBz-39A: Reports by Publicly Traded Partnerships

BILL ANALYSIS

Committee:	Revenue Laws Study Committee	**Date:**	April 30, 2008
Introduced by:		**Summary by:**	Cindy Avrette
Version:	Bill Draft		Committee Staff

***SUMMARY:** This bill draft would require publicly traded partnerships to file an informational return with the Secretary of Revenue that lists the partners who received more than $500 of income from the partnership during the taxable year. This return would be in lieu of the current requirement for it them to report the distributive share of the income of each nonresident member and to pay the tax on the nonresident member's share of income. The bill would become effective for taxable years beginning on or after January 1, 2008.*

BILL ANALYSIS: A publicly traded partnership (PTP) is a limited partnership the interests in which are traded on public exchanges, just like corporate stock. However, under section 7704(c) of the Code, a PTP that receives more than 90% of its income from specified sources may be treated as a partnership rather than a corporation for tax purposes. The specified sources of income include mineral or natural resources activities like exploration, production, mining, and refining; marketing and transportation of oil and gas (pipelines); timber; and real estate. Most PTPs are in energy or real estate related businesses. I understand NC has a handful of PTPs (less than 10).

Because a PTP has thousands of unit-holders that are traded daily on the stock exchange, it is very difficult for a PTP to comply with the current requirements to identify its nonresident unit-holders, to report the distributive share of income of those unit-holders, and to pay tax on behalf of those unit-holders.

The Multi-State Tax Commission has adopted a model statute that exempts PTP from reporting and withholding requirements for non-resident members of pass-through entities. It is my understanding that more than 25 states have excluded PTPs from tax withholding requirements for nonresident partners.

This bill draft would exclude PTPs from tax withholding requirements for nonresident members; in its place, it would require PTPs to file an annual return with the Secretary identifying those unit-holders who received more than $500 of income from the partnership during the taxable year. PTPs, like other partnerships, issue Schedule K-1 to its unit-holders. The compilation of this information would be provided to the Department. This information would allow the Department to cross-check information to ensure that taxpayers who owe tax to the State are paying it.